

U S WEST

Summary:

- **§272(b)(3) does not prohibit a BOC and its separate affiliate from sharing administrative and support services.**
- **§272(b)(3) does not prohibit a BOC and its separate affiliate from sharing “outside” administrative and support services provided by another affiliate or an unaffiliated party.**
- **The Act does not prohibit the BOCs from utilizing inbound telemarketing calls to sell their separate affiliates’ interLATA services.**
- **The Act permits the BOCs to enter into “teaming” arrangements with IXC.**
- **§272(b)(3) does not require a BOC and its separate affiliate to contract with an outside party for joint marketing.**
- **A BOC affiliate providing local exchange service is not an “incumbent local exchange carrier” unless the affiliate is also a successor or assign of the BOC.**

§272(b)(3) does not prohibit a BOC and its separate affiliate from sharing administrative and support services.

- **Section 272(b)(3) means what it says and nothing more:**
 - **An officer, director, or employee of a Bell operating company may not also be an officer, director, or employee of a separate affiliate.**
 - **Says nothing about other BOC/separate-affiliate relationships.**
 - **Tentative conclusion would preclude a separate affiliate from being a subsidiary of the BOC.**
 - **If the Act prohibits a BOC from providing financing services to a separate affiliate, §272(b)(4) is unnecessary.**

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Administrative and support services.

Consider §274:

- **Has the same prohibition for a separated affiliate.**
- **But also prohibits the BOC from performing --**
 - **“hiring or training of personnel” = personnel recruitment and management;**
 - **“purchasing, installation, or maintenance of [non-telecommunications equipment]” = operating, installation and maintenance personnel.**

Consider §273:

- **Permits an entity that certifies telecommunications equipment or CPE to manufacture such equipment only through a separate affiliate, which must have “separate employees” from the certifying entity.**
- **But also prohibits the certifying entity and the separate affiliate from “engag[ing] in any joint manufacturing activities” = operating personnel.**
- **If the tentative conclusion were right, these specific prohibitions would be unnecessary.**

Administrative and support services.

- **Imposing burdens on the BOCs' separate affiliates beyond those reasonably required by the Act will frustrate the Act's goals of promoting competition and reducing regulation.**
- **Absent a demonstrated need to protect competition, the Commission should not impose additional restrictions on the BOCs' separate affiliates.**
 - **Sharing administrative/support services presents no threat to competition.**
 - **Cross subsidy is not a realistic threat; the Commission's existing affiliate-transaction rules provide adequate protection.**
 - **Needlessly imposing inefficiencies on a set of competitors will harm competition and deprive consumers of the benefits of competition.**

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§272(b)(3) does not prohibit a BOC and its separate affiliate from sharing “outside” administrative and support services provided by another party.

- **·§272(b)(3) does not require a prohibition on such sharing.**
- **No evidence to suggest that sharing such services would harm competition.**
- **Precluding only one group of competitors from sharing such services would harm competition.**
- **If such sharing is prohibited, may a common parent (e.g., U S WEST) provide administrative and support services to a BOC and a separate affiliate?**
- **If not, how can U S WEST manage both U S WEST Communications and the separate affiliate.**

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The Act does not prohibit the BOCs from utilizing inbound telemarketing calls to sell their separate affiliates' interLATA services.

- **Once it has in-region, interLATA authorization, a BOC may market and sell the interLATA services of its separate affiliate -- no express limits.**
- **No provision of the Act prohibits a BOC from using inbound calls as a sales opportunity for its separate affiliate's services.**
 - **Not inconsistent with dialing parity.**
 - **§251(g) does not require the FCC to prohibit BOCs from using inbound calls as marketing opportunities.**
 - **§274 prohibits joint marketing, but expressly allows limited inbound telemarketing.**
- **§271(e)(1) limits ability of the "Big 3" IXC's to market interLATA service with resold local service before the BOC has in-region, interLATA authorization --**
 - **Congress intended to put the BOCs and their competitors on roughly the same footing when it comes to selling service "packages."**
 - **The BOCs' competitors can and will sell "packages" including local and intraLATA and interLATA toll services on inbound telemarketing calls.**
 - **Unless the BOCs have that same freedom, the balance intended by Congress will not be achieved.**

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Inbound telemarketing

- **Allowing the BOCs to market their separate affiliates' interLATA services in this fashion will benefit customers by reducing customer confusion and permitting better utilization of BOC resources.**
- **The BOCs and their affiliates must be allowed to market their services in the same manner as their competitors in order to compete effectively.**
 - **Additional regulations on one set of competitors does not allow customers to benefit from a truly competitive market.**
- **Parity in joint marketing rules is essential to fulfilling the Act's goals of promoting competition and reducing regulation.**
 - **The ability to jointly market toll and local services (other than by resale) gives IXC's an immediate competitive advantage over the BOCs and their separate affiliates.**
 - **Giving IXC's a further advantage by prohibiting only the BOCs from using inbound telemarketing calls to sell interLATA services would deprive consumers of the benefits of competition.**

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The Act permits the BOCs to enter into “teaming arrangements” with IXC.

- **§271(a) prohibits BOCs from providing interLATA services.**
- **“InterLATA services” defined as transmission between a point in a LATA and a point outside that LATA.**
- **MFJ was different.**
- **So long as the customer establishes a separate relationship with the IXC (i.e., no resale), BOC is not providing interLATA transmission in any sense.**
- **By its terms, §272(g)(2) is irrelevant.**

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§272(b)(3) does not require a BOC and its separate affiliate to contract with an outside party for joint marketing.

- **§272(g)(1) contemplates that a separate affiliate may market the BOC's exchange services if the BOC allows others to do so.**
 - **This permission runs expressly to the separate affiliate.**
- **§272(g)(2) contemplates that a BOC may market its separate affiliate's interLATA services once it has in-region authorization.**
 - **This permission runs expressly to the Bell operating company.**
- **"Joint marketing" means a BOC's selling the services of its separate affiliate, and the separate affiliate's selling the services of the BOC.**
- **If Congress had intended to require the BOCs and their separate affiliates to hire an outside entity to market each others' services, it would have said so.**
- **The NPRM's suggestion flows from the mistaken tentative conclusion regarding administrative and support services.**

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A BOC affiliate providing local exchange service is not an “incumbent local exchange carrier” unless the affiliate is also a successor or assign of the BOC.

- **§251(h)(1) defines an “incumbent local exchange carrier” to include only**
 - **the local exchange carrier that --**
 - **provided local service in an area on February 8, 1996; and**
 - **was deemed a member of NECA; or**
 - **a successor or assign of such a LEC.**
- **Unless a BOC affiliate meets one of these tests, it is not an “incumbent LEC.”**
 - **E.g., MediaOne: Wholly-owned subsidiary of U S WEST (BOC affiliate) providing local exchange service in Atlanta (where Bell South is the incumbent LEC).**